

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEE EDWARD PEYTON,
Plaintiff,
v.
RANDY GROUNDS,
Defendant.

Case No. [13-4232-VC \(PR\)](#)

**ORDER GRANTING MOTION FOR
RECONSIDERATION, VACATING
JUDGMENT, REOPENING CASE, AND
GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
AMENDED COMPLAINT**

Doc. nos. 15, 16

Lee Edward Peyton, an inmate at Kern Valley State Prison proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against Randy Grounds, Warden at Salinas Valley State Prison, where Peyton was formerly incarcerated. On May 8, 2014, the Court reviewed Peyton's amended complaint and dismissed it with leave to amend. Doc. no. 12. The Court stated that an amended complaint must be filed within twenty-one days from the date of the Order or the case would be dismissed. On June 9, 2014, the Court dismissed the case on the assumption that Peyton had not timely filed an amended complaint or otherwise communicated with the Court. Doc. no. 13. However, due to a docketing error, the Court was unaware of the fact that Peyton had submitted a motion for an extension of time in which to file his amended complaint. Peyton's motion for an extension of time was received by the Court on June 9, 2014 but it was not entered on the docket by the Clerk until June 26, 2014. Doc. no. 15. It was signed on May 15, 2014, before the twenty-one day deadline had passed. On June 18, 2014, Peyton filed a motion for the Court to reconsider dismissing his case on the grounds that he had filed a timely motion for an extension of time.

Good cause appearing, the motion for reconsideration is GRANTED. The judgment

entered on June 9, 2014 is vacated and the Clerk of the Court is directed to reopen this case. Also, for good cause, Peyton's motion for an extension of time to file an amended complaint is granted. His amended complaint is now due twenty-one days from the date of this Order.

CONCLUSION

Based on the foregoing, the Court orders as follows:

1. The motion for reconsideration is granted. Doc. no. 16. The Clerk of the Court shall vacate the judgment entered on June 9, 2014 and reopen this case.

2. The motion for an extension of time is granted. Doc. no. 15. Peyton's amended complaint is now due twenty-one days from the date of this Order. The amended complaint must include the caption and civil case number used in this Order and the words AMENDED COMPLAINT on the first page. Because an amended complaint completely replaces the original complaint, Peyton must include in it all the allegations he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from the original complaint by reference. Failure to amend within the designated time will result in the dismissal of this action.

3. It is Peyton's responsibility to prosecute this case. Peyton must keep the Court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address," and must comply with the Court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

4. This Order terminates docket numbers 15 and 16.

IT IS SO ORDERED.

Dated: July 3, 2014



VINCE CHHABRIA
United States District Judge